

Hearing Date and Time:
September 15, 2010 at 9:30 a.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X
In re:

Chapter 11

GLOBAL CONTAINER LINES LTD. et al.,

Case Nos.
809-78585-735
809-78584-735
809-78589-735
809-78586-735
809-78587-735
809-78588-735
809-78590-735

Debtors.

- - - - -X

**DECLARATION IN SUPPORT OF PARTIAL OBJECTION
TO THE MOTION OF DEBTOR GLOBAL CONTAINER
LINES LTD. TO RECLASSIFY AND REDUCE CLAIM OF
THE UNITED STATES DEPARTMENT OF AGRICULTURE**

Martha A. Locke declares in accordance with 28 U.S.C. § 1746
as follows:

1. I am a Commodity Program Specialist, employed by the
Export Debt Branch, Contract Reconciliation Division, Kansas City
Commodity Office, Farm Service Agency, United States Department
of Agriculture (USDA), an agency of the United States of America.

2. I make this declaration in support of the USDA's
partial objection to the motion of debtor Global Container Lines
Ltd. to reclassify and reduce the USDA's claim No. 27 in this
matter.

3. On March 11, 2010, the USDA filed a Proof of Claim
(POC) with an attached Proof of Claim Summary (POC Summary). In
the POC, the USDA made a secured claim in the amount of

\$256,470.78, as shown in the copy of the POC annexed to the Debtor's Motion.

4. The POC Summary, which is not attached to Debtor's Motion, but which is attached to this Declaration as Exhibit (Exh.) A, explains the basis for the USDA's claim. Specifically, the claim represents amounts due from Debtor for losses of humanitarian food aid cargo. See Exh. A at 1.

5. The POC Summary goes on to explain that as a result of the losses, the USDA made 22 claims, totaling \$256,470.78, with the Debtor on behalf of the Commodity Credit Corporation (CCC), an agency within the USDA. *Id.* at 1.

6. The remainder of the POC Summary is a spread sheet entitled "Schedule of Debts," detailing the 22 claims filed with the Debtor. *Id.* at 2-5.

7. Each of the 22 claims has a USDA Debt Control Number (DCN) associated with it. *Id.* at 2-5.

8. On July 9, 2008, a settlement conference took place between representatives of the USDA and Debtor regarding 18 of the 22 claims.

9. By letter of September 5, 2008, the USDA informed Debtor that it had accepted Debtor's offer to settle the claim regarding DCN 16959, one of the 18 claims. Annexed to this Declaration as Exh. B is a copy of that letter.

10. By letter of March 3, 2009, the USDA informed Debtor

that it had accepted Debtor's offer to settle the claims regarding DCNs 14729, 16959,¹ 17046, 13917, 15743, 15784, 15906, 15961, 16041, 16500, 16502, 16605, 16793, 16972, 17206, 17283, and 17449. Attached to the letter was a table detailing the 17 settlement offers (out of 18) that the USDA had accepted to that point. Annexed to this Declaration as Exh. C is a copy of that letter with the attached table.

11. By letter of June 30, 2009, the USDA informed Debtor that it had accepted Debtor's offer to settle the claim regarding DCN 15742, the last of the 18 claims discussed at the July 9, 2008 settlement conference. Annexed to this Declaration as Exh. D is a copy of that letter.

12. By email of July 1, 2009, the USDA sent Debtor an updated table summarizing all 18 of the now-accepted settlement offers. Annexed to this Declaration as Exh. E are copies of the email and the table.

13. According to the table, the USDA accepted offers totaling \$145,785.18 to settle a total debt amount of \$226,937.87 for the 18 claims. See Exh. E.

14. By letter of March 3, 2009, after an offer from Debtor dated August 20, 2008, the USDA informed Debtor that it had

¹ The USDA reiterated its acceptance of Debtor's offer to settle the claim regarding DCN 16959 in the letter, because as of the date of the letter, Debtor had not paid the agreed amount. See the table attached to the letter.

accepted Debtor's offer to settle the claim regarding DCN 16042 for \$150.00. Annexed to this Declaration as Exh. F is a copy of that letter.

15. To date, Debtor has not paid any of the 19 settled claims discussed above.

16. The 19 settled claims discussed above do not represent all the claims listed in the Schedule of Debts that is part of the POC Summary. Three claims remain, none of which was ever settled or paid.

17.. Claim #3 in the Schedule of Debts pertains to DCN 18310 and is in the amount of \$650.81. See Exh. A at 2. The claim was made by letter dated August 29, 2007, and was assigned to the CCC on August 30, 2007. Annexed to this Declaration as Exh. G are copies of the letter and assignment.

18. Claim #16 in the Schedule of Debts pertains to DCN 16960 and is in the amount of \$27,015.40. See Exh. A at 4. The claim was made by letter dated December 18, 2008.² Annexed to this Declaration as Exh. H is a copy of the letter.

19. Claim #21 in the Schedule of Debts pertains to DCN 17752 and is in the amount of \$1,423.39. See Exh. A at 5. The claim was made by letter dated October 24, 2008. Annexed to this

² The Court will note that the amount claimed in the letter is larger than the amount claimed in the Schedule of Debts. The USDA claims the smaller amount stated in the Schedule of Debts.

Declaration as Exh. I is a copy of the letter.

20. Debtor seeks reclassification of the USDA's claim from secured to general unsecured. See Debtor's Motion, ¶ 7. The USDA does not oppose this relief, as its claim is, in fact, unsecured.

21. Debtor also seeks reduction of the USDA's claim to \$145,785.18, the amount the USDA accepted to settle the 18 claims discussed above. The USDA opposes this relief in part, and asserts that to this amount \$150.00 must be added, the amount for which the claim regarding DCN 16042 was settled. See ¶ 14 above and Exh. F. This settlement was not part of the settlement of the 18 claims. See Exh. E.

22. The amounts of the claims regarding DCNs 18310 (\$650.81), 16960 (\$27,015.40) and 17752 (\$1,423.39) must also be added to the amount set forth in ¶ 21 above. These claims were not among the 19 claims settled and have never been paid. See ¶¶ 16-19 above.

23. Thus, the total amount that must be added to the amount set forth in ¶ 21 above is \$29,239.60, making the USDA's total claim \$175,024.78. The USDA opposes any reduction of its claim to an amount lower than that amount.

I declare under penalty of perjury that the foregoing is
true to the best of my knowledge, information and belief.

Dated: Kansas City, Missouri
September 3, 2010

Martha A. Locke
MARTHA A. LOCKE